

1 QUINN EMANUEL URQUHART &
2 SULLIVAN, LLP

3 Margret Caruso (Bar No. 243473)
4 555 Twin Dolphin Drive, 5th Floor
5 Redwood Shores, California 94065
6 Telephone: (650) 801-5000
7 Facsimile: (650) 801-5100
8 margretcaruso@quinnemanuel.com

9 Sam S. Stake (Bar No. 257916)
10 50 California Street, 22nd Floor
11 San Francisco, California 94111
12 Telephone: (415) 875-6600
13 Facsimile: (415) 875-6700
14 samstake@quinnemanuel.com

15 Attorneys for Defendant/Counter-Plaintiff
16 BABYBUS (FUJIAN) NETWORK
17 TECHNOLOGY CO., LTD
18

19 UNITED STATES DISTRICT COURT
20 NORTHERN DISTRICT OF CALIFORNIA
21 SAN FRANCISCO DIVISION

22 MOONBUG ENTERTAINMENT LIMITED
23 and TREASURE STUDIO, INC.,

24 Plaintiffs,

25 v.

26 BABYBUS (FUJIAN) NETWORK
27 TECHNOLOGY CO., LTD,

28 Defendant.

29 BABYBUS (FUJIAN) NETWORK
30 TECHNOLOGY CO., LTD,

31 Counter-Plaintiff,

32 v.

33 MOONBUG ENTERTAINMENT LIMITED
34 and TREASURE STUDIO, INC.,

35 Counter-Defendants.

CASE NO. 4:21-CV-06536-EMC

**DECLARATION OF NAIYONG YAN IN
SUPPORT OF BABYBUS (FUJIAN)
NETWORK TECHNOLOGY CO., LTD'S
NOTICE OF MOTION AND MOTION
FOR TEMPORARY RESTRAINING
ORDER AND ORDER TO SHOW CAUSE
WHY A PRELIMINARY INJUNCTION
SHOULD NOT ISSUE AND
MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT THEREOF**

Judge: Honorable Edward M. Chen



Courtroom: 5, 17th Floor

I, Naiyong Yan, declare as follows:



1. I am Naiyong Yan, Head of the Video Business Department for Baby Bus Co., Ltd. (“BabyBus”), the parent company of Defendant and Counter-Plaintiff BabyBus (Fujian) Network Technology Co., Ltd in the above-captioned matter. I submit this declaration in support of Defendant/Counter-Plaintiff’s Notice of Motion and Motion for a Temporary Restraining Order and an Order to Show Cause. I have personal knowledge of the facts set forth in this declaration and, if called to testify as a witness, could and would do so competently.

2. Along with its subsidiaries, BabyBus is a global leader in original educational digital content for children, was founded in 2009, and currently has over 1,100 employees. At the end of 2020, research and development personnel accounted for approximately 84% of these employees, most of whom are artists, musicians, and other creative contributors. About 78% of all employees have a bachelor’s degree or above. In addition, BabyBus has hired well-known children’s educational experts and professors as product consultants—all committed to producing original and high-quality children’s entertainment. Among other awards, BabyBus won Google Play’s “Best for Kids” awards in 2016 and 2017 and YouTube’s Diamond Creator Award in 2019 and 2020.

3. I understand that this action implicates JoJo from BabyBus’s Super JoJo show, and JJ from the show CoComelon by Plaintiffs Moonbug Entertainment Limited and Treasure Studio, Inc. (collectively, “Moonbug”). A true and correct depiction of JoJo (left) and JJ (right) are presented in **Table 1**, below.

Table 1	
	
BabyBus’ JoJo	Moonbug’s JJ

1 4. BabyBus’s JoJo originated in 2016, when BabyBus created and published a children’s
2 show on YouTube titled “Barber” featuring baby Doudou. *See, e.g., 1 Hour background music |*
3 *accompaniment HD | BabyBus Music*, uploaded to YouTube on Aug. 18, 2016 (available at
4 https://youtu.be/fl1e0EP_io2o?t=1377). Doudou’s look was inspired by the “New Year Doll.” In
5 traditional Chinese culture, families post a picture of the New Year Doll on its door during the
6 holiday—a picture that includes a baby boy with a big head and comparatively small body, a single
7 color hair tuft on the top of his head, big eyes and thin, rounded eyebrows, and thin lips with a half-
8 moon smile—just like Doudou. A true and correct depiction of Doudou (left) and the New Year Doll
9 (right) are presented in **Table 2**, below. To protect its work, BabyBus applied for and was granted a
10 copyright for Doudou in China. A true and correct copy of the copyright is attached hereto as **Exhibit**
11 **A**.

Table 2	
	
BabyBus’ Doudou	New Year Doll

24 5. Shortly after Doudou’s introduction, the market trended from 2-D to 3-D animation.
25 To meet the demand, in early 2019, BabyBus sought licenses to 3-D digital models of a baby boy and
26 his family. BabyBus took a license to one set of 3-D models for sale that included a baby boy with a
27 striking resemblance to Doudou. Both have a brown monolithic swirl of hair on the top of head,
28 brown, thin rounded eyebrows, oversized eyes with large irises and pupils, rosy cheeks, large ears, and

a half-moon mouth with thin lips. A true and correct depiction of Doudou, a licensed 3-D model, and JoJo are presented in **Table 3** below. The 3-D model set also included a sister and brother—well-suited for BabyBus since Doudou also has both siblings. Creation of the show’s episodes often involved, among other things, creating 3-D animations of classic songs and dances with the assistance of actors whose motions were captured, sometimes with bright and saturated colors, which are, essentially, requirements of the medium and genre. BabyBus launched the flagship Super JoJo channel (the English-language channel) in June 2019. A true and correct depiction of JoJo’s family members (versions 1 and 2) and JJ’s family members are presented in **Table 4** below.




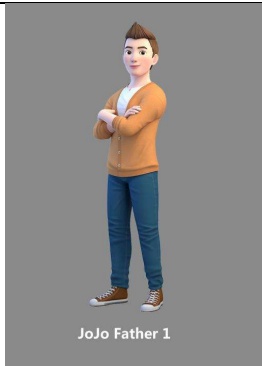




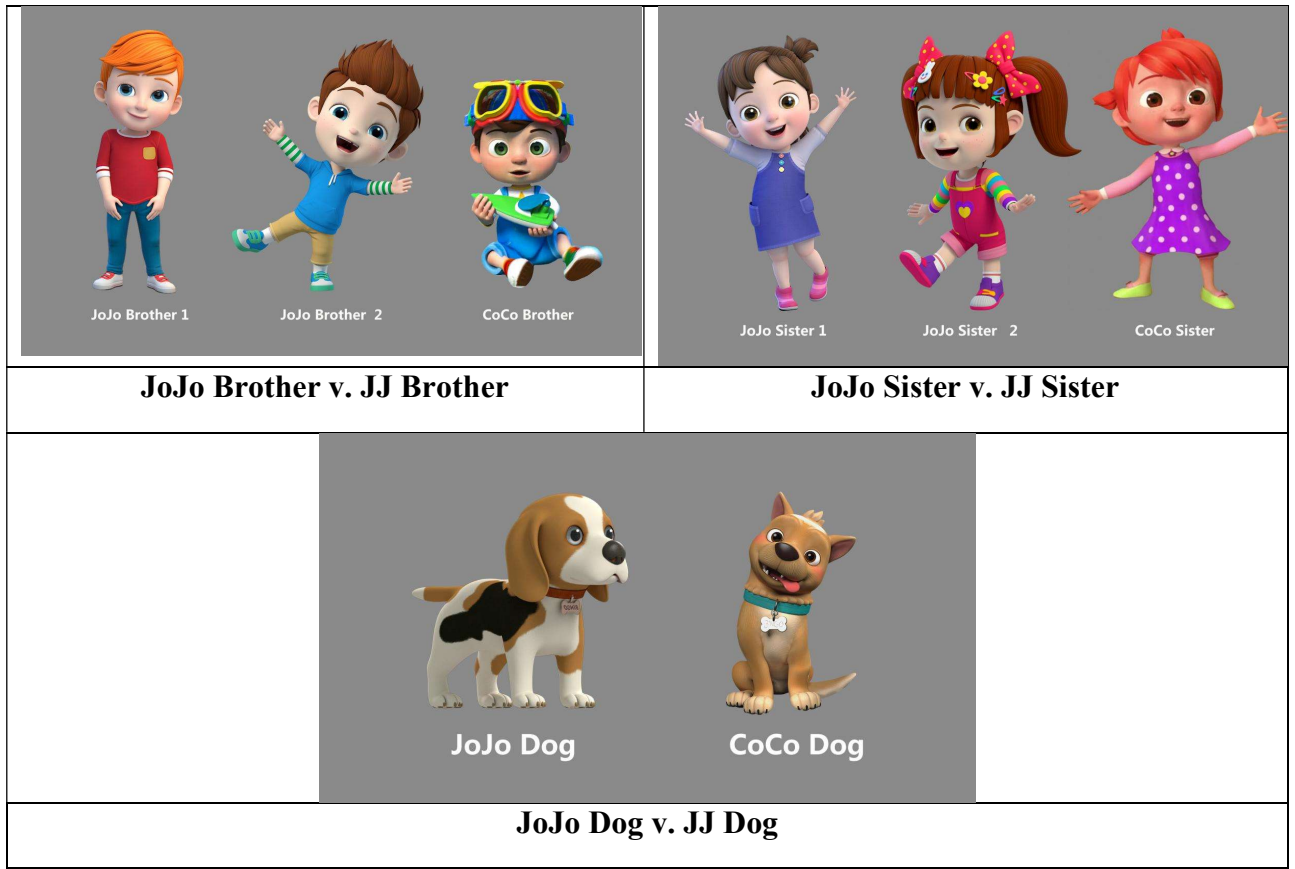
Table 3		
		
Doudou	Licensed 3-D Model	JoJo

Table 4					
					
JoJo Father 1	JoJo Father 2	CoCo Father	JoJo Mother 1	JoJo Mother 2	CoCo Mother
JoJo Father v. JJ Father			JoJo Mother v. JJ Mother		



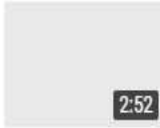

6. Since its launch, the number of subscribers for the flagship channel has exceeded 20,000,000 subscribers, and the views have exceeded 12 billion worldwide. Building this following took monumental investment of time and resources, including millions of dollars.

7. Beginning on July 20, 2021, and within days of learning about BabyBus' IPO, Moonbug launched its campaign to terminate the Super JoJo channels. Moonbug's nine (of 70) successful takedown notices followed a consistent form—citation to its copyright registration of JJ paired with identification of one or more allegedly infringing videos. For example, the first two takedown requests do not concern any of the five works Moonbug alleges are copies or near copies of its works. Rather, they are two BabyBus works where Moonbug claimed infringement of Copyright Reg. No. VAu001379978, which is for 2-D artwork titled "JJ" (created *after* Doudou, consequently), and Reg. No. VAu001322038, which is for 2-D artwork titled "Unpublished Family Characters." Attached as **Exhibit B** is a true and correct copy of the search results on the U.S. Copyright Office website for Copyright Re. No. VAu001379978. Attached as **Exhibit C** is a true and correct copy of the search results on the U.S. Copyright Office website for Copyright Re. No. VAu001322038; *see*

also the following screenshots BabyBus' YouTube console indicating Copyright Reg. No. VAu001379978 ("JJ") in connection with the majority of takedowns:

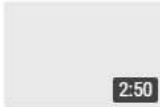
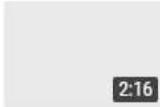
收到警示的日期：2021年7月31日 失效日期：10月29日 警示包含 2 个视频 ?

内容已被Moonbug Entertainment Limited 移除

视频	所用内容	操作
 <div>2:52</div>	Doctor Checkup Song Super JoJ... 发布日期 2019年7月25日 Titles: "JJ," Reg. No. VAu001379978. ar...	选择操作 抗辩通知已转发 ?
 <div>2:48</div>	Johnny Johnny Yes Papa Super Jo... 发布日期 2019年7月12日 Title: "JJ," Reg. No. VAu001379978. art...	选择操作 抗辩通知已转发 ?

收到警示的日期：2021年8月7日 失效日期：11月5日 警示包含 2 个视频 ?

内容已被Moonbug Entertainment Limited移除

视频	所用内容	操作
 <div>2:50</div>	Clean Up Song Tidy Up Song Su... 发布日期 2019年11月2日 Clean Up Song CoComelon Nursery R...	选择操作 抗辩通知已转发 ?
 <div>2:16</div>	Farm Animals Song Animal Soun... 发布日期 2020年3月17日 Titles: "JJ," Reg. No. VAu001379978. ar...	选择操作 抗辩通知已转发 ?

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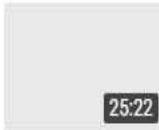
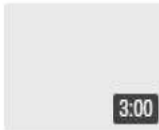
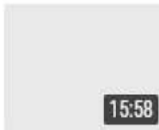
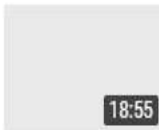
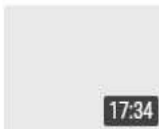
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收到警示的日期：2021年8月12日 失效日期：11月10日

警示包含 5 个视频 ?

内容已被Moonbug Entertainment Limited移除

视频	所用内容	操作
 25:22	Rain Rain Go Away Swimming So... 发布日期 2019年9月8日 Titles: "JJ," Reg. No. VAu001379978. ar...	选择操作 ▼
 3:00	The Finger Family Song Nursery ... 发布日期 2019年11月16日 Finger Family + More Nursery Rhymes ...	选择操作 ▼
 15:58	The Color Song Learn Colors For ... 发布日期 2019年12月24日 Titles: "JJ," Reg. No. VAu001379978. ar...	选择操作 ▼
 18:55	Yes Yes Clean Up Song Tidy Up S... 发布日期 2020年3月6日 Titles: "JJ," Reg. No. VAu001379978. ar...	选择操作 ▼
 17:34	Wash Your Hands Song Healthy ... 发布日期 2020年1月14日 Titles: "JJ," Reg. No. VAu001379978. ar...	选择操作 ▼

8. Upon termination, the Super JoJo Channel was removed by YouTube's recommendation algorithm. The result is a complete loss of search-engine standing on YouTube that built up over the past two years and damage to search-engine standing of BabyBus' other channels. Before the termination of the English-language Super JoJo Channel, its videos were viewed on an average of 27 million times per day and received about 40,000 new subscribers per day. The flagship channel brings in up to ten times the revenue as the second most successful Super JoJo channel. With the closure, there can be no growth, and losses are at least \$400,000 to \$500,000 per month. The

1 inability to do and grow business is especially harmful now, in the fourth quarter of the year, because
2 that is the peak season of the YouTube advertising ecosystem.

3 9. In addition to the ongoing loss of the English-language channel, there is an imminent
4 prospect of the Spanish-language channel being terminated, representing a loss of another 10% of
5 Super JoJo revenue. Not only is irreparable damage being done to the Super JoJo brand, subscriber
6 base, and future prospects, but dozens of BabyBus artists and employees' livelihoods depend on Super
7 JoJo. They too are impacted.

8 10. Moreover, since the termination, BabyBus has observed social media users expressing
9 confusion or disappointment that they could not access the Super JoJo Channel. For example:



11. BabyBus corresponded with YouTube regarding its flagship Super JoJo channel's termination, and YouTube advised that the channel would be restored if the copyright strikes against the channel were decreased to zero or less than three. A true and correct copy of that correspondence between BabyBus and YouTube is attached as **Exhibit D**. A true and correct copy of an excerpt from YouTube policy concerning copyright litigation is attached as **Exhibit E**. To date, copyright strikes against any Super JoJo channel have been caused only by Moonbug.

I declare under penalty of perjury under the laws of the United States of America that the foregoing statements are true and correct to the best of my knowledge.

Executed on September 28, 2021, in Fuzhou City, Fujian Province, China 350007.

Naiyong Yan